



General Assembly

January Session, 2009

Amendment

LCO No. 7531

HB0666407531HDO

Offered by:

REP. LAWLOR, 99th Dist.

To: Subst. House Bill No. 6664

File No. 974

Cal. No. 520

***"AN ACT CONCERNING REVISIONS TO VARIOUS STATUTES
CONCERNING THE CRIMINAL JUSTICE SYSTEM."***

1 Strike sections 14 and 16 in their entirety and renumber sections and
2 internal references accordingly

3 After the last section, add the following and renumber sections and
4 internal references accordingly:

5 "Sec. 501. Subsection (m) of section 54-56d of the general statutes is
6 repealed and the following is substituted in lieu thereof (*Effective*
7 *October 1, 2009*):

8 (m) If at any time the court determines that there is not a substantial
9 probability that the defendant will attain competency within the
10 period of treatment allowed by this section, or if at the end of such
11 period the court finds that the defendant is still not competent, the
12 court shall consider any recommendation made by the examiners
13 pursuant to subsection (d) of this section and any opinion submitted
14 by the treatment facility pursuant to subparagraph (C) of subsection (j)

15 of this section regarding eligibility for, and the appropriateness of, civil
16 commitment to a hospital for psychiatric disabilities and shall either
17 release the defendant from custody or order the defendant placed in
18 the custody of the Commissioner of Mental Health and Addiction
19 Services, the Commissioner of Children and Families or the
20 Commissioner of Developmental Services. If the court orders the
21 defendant placed in the custody of the Commissioner of Children and
22 Families or the Commissioner of Developmental Services, the
23 commissioner given custody, or the commissioner's designee, shall
24 then apply for civil commitment in accordance with sections 17a-75 to
25 17a-83, inclusive, or 17a-270 to 17a-282, inclusive. If the court orders
26 the defendant placed in the custody of the Commissioner of Mental
27 Health and Addiction Services, the court may order the commissioner,
28 or the commissioner's designee, to apply for civil commitment in
29 accordance with sections 17a-495 to 17a-528, inclusive, or order the
30 commissioner, or the commissioner's designee, to provide services to
31 the defendant in a less restrictive setting, provided the examiners have
32 determined in the written report filed pursuant to subsection (d) of this
33 section or have testified pursuant to subsection (e) of this section that
34 such services are available and appropriate. The court shall hear
35 arguments as to whether the defendant should be released or should
36 be placed in the custody of the Commissioner of Mental Health and
37 Addiction Services, the Commissioner of Children and Families or the
38 Commissioner of Developmental Services. If the court orders the
39 release of a defendant charged with the commission of a crime that
40 resulted in the death or serious physical injury, as defined in section
41 53a-3, of another person, or with the violation of subdivision (2) of
42 subsection (a) of section 53-21, subdivision (2) of subsection (a) of
43 section 53a-60 or section 53a-70, 53a-70b, 53a-71, 53a-72a or 53a-72b or
44 orders the placement of such defendant in the custody of the
45 Commissioner of Mental Health and Addiction Services, the court
46 may, on its own motion or on motion of the prosecuting authority,
47 order, as a condition of such release or placement, periodic
48 examinations of the defendant as to the defendant's competency. Such
49 an examination shall be conducted in accordance with subsection (d)

50 of this section. Upon receipt of the written report as provided in
51 subsection (d) of this section, the court shall, upon the request of either
52 party filed not later than thirty days after the court receives such
53 report, conduct a hearing as provided in subsection (e) of this section.
54 Such hearing shall be held not later than ninety days after the court
55 receives such report. If the court finds that the defendant has attained
56 competency, the defendant shall be returned to the custody of the
57 Commissioner of Correction or released, if the defendant has met the
58 conditions for release, and the court shall continue with the criminal
59 proceedings. Periodic examinations ordered by the court under this
60 subsection shall continue until the court finds that the defendant has
61 attained competency or until the time within which the defendant may
62 be prosecuted for the crime with which the defendant is charged, as
63 provided in section 54-193 or 54-193a, has expired, whichever occurs
64 first. The court shall dismiss, with or without prejudice, any charges
65 for which a nolle prosequi is not entered when the time within which
66 the defendant may be prosecuted for the crime with which the
67 defendant is charged, as provided in section 54-193 or 54-193a, has
68 expired. Notwithstanding the erasure provisions of section 54-142a,
69 police and court records and records of any state's attorney pertaining
70 to a charge which is nolleed or dismissed without prejudice while the
71 defendant is not competent shall not be erased until the time for the
72 prosecution of the defendant expires under section 54-193 or 54-193a.
73 A defendant who is not civilly committed as a result of an application
74 made by the Commissioner of Mental Health and Addiction Services,
75 the Commissioner of Children and Families or the Commissioner of
76 Developmental Services pursuant to this section shall be released. A
77 defendant who is civilly committed pursuant to such an application
78 shall be treated in the same manner as any other civilly committed
79 person."